



ENVIRONMENTAL QUALITY COUNCIL

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JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
CYNTHIA PETERSON, Secretary

MINUTES

Approved May 28, 2009

July 15, 2008

Room 102
State Capitol Building

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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To view the minutes, locate the meeting date and click on minutes. To hear the audio recording, click on the Real Player icon. Note: You must have Real Player to listen to the audio recording.

COMMITTEE MEMBERS PRESENT

SEN. DAVID WANZENRIED, Chair
REP. CAROL LAMBERT, Vice Chair
SEN. BOB HAWKS
SEN. CHRISTINE KAUFMANN
SEN. JIM SHOCKLEY
SEN. ROBERT STORY JR
REP. NORMA BIXBY
REP. SUE DICKENSON
REP. JULIE FRENCH
REP. CHAS VINCENT
REP. CRAIG WITTE
MS. DIANE CONRADI
MR. DOUG McRAE

COMMITTEE MEMBERS EXCUSED

SEN. DANIEL MCGEE
MR. BRIAN CEBULL
MR. JEFF PATTISON
MR. MIKE VOLESKY

STAFF PRESENT

TODD EVERTS, Lead Staff
JOE KOLMAN, Research Analyst
SONJA NOWAKOWSKI, Research Analyst
HOPE STOCKWELL, Research Analyst
CYNTHIA PETERSON, Secretary

Visitors

Visitors' list ([Attachment 1](#))
Agenda ([Attachment 2](#))

COMMITTEE ACTION

- Mr. Everts was instructed to prepare legislation eliminating the contingency provisions in the Coal and Uranium Mine Reclamation Act.
- The EQC approved DEQ's summary of proposed legislation, through Kalispell Pole and Timber/Reliance Refinery/Yale Oil (KRY), for the purposes of pre-introduction.
- The EQC approved the drafting of DEQ's proposed legislation regarding Damage Awards and Environmental Cleanup.
- The EQC approved the drafting of DNRC's 2009 proposed legislation for the purposes of pre-introduction.
- The EQC voted to send a letter to the BER regarding the Highwood Generating Facility air quality permit.
- The EQC voted LC 6011 be amended to include after "LEED silver standard" "Sustainable Forest Initiative and American Tree Farm System or other comparable standards." The EQC also amended LC 6011, so new construction of state-owned buildings include state buildings constructed or leased.
- The EQC amended LC 6003 to specify the funding would be from an increase in the tipping fee.
- The EQC approved LC 6000 through LC 6011, as amended, for the purpose of drafting, noticing for review, and public comment.

- The EQC voted to have the EQC's draft report include the process of how the Governor's report on climate change came about with the assistance and funding from the Center for Climate Change Strategies.
- The EQC amended its draft report to omit the information regarding the survey from the appendices.
- The EQC voted its draft report include reference to the climate change report prepared by the Science and Public Policy Institute, specifically in reference to page 15 of the report and the petition that 143 Montana scientists have signed, and provide a link to the SPPI report.
- The EQC voted to advance its draft report for public comment.

CALL TO ORDER AND ROLL CALL

00:00:01 Rep. Carol Lambert, Vice Chairman of the Environmental Quality Council (EQC), called the meeting to order at 8:02 a.m. The secretary noted the roll ([Attachment 3](#)).

AGENDA

AGENCY OVERSIGHT SUBCOMMITTEE REPORT

Report of Subcommittee Activities - Sen. Shockley

00:01:33 Sen. Shockley, Chairman of the Agency Oversight Subcommittee (Subcommittee), provided an update on the Subcommittee's activities. The Subcommittee reviewed the Department of Environmental Quality (DEQ) and the Board of Environmental Review (BER) processes in granting the air-quality permit to the Highwood Generation Station. The air-quality permit was repealed because the DEQ did not use the Best Available Control Technology (BACT). The Subcommittee believed there should have been a rule if the technology exists to measure for PM 2.5 microns. Sen. Shockley submitted a letter he proposed to send to address the issue ([EXHIBIT 1](#)). Additionally, the Department of Agriculture, the Department of Natural Resources and Conservation (DNRC), and the DEQ submitted their annual compliance and enforcement reports to the Subcommittee. The DNRC reported on land-banking activities and wanted to extend land banking until 2011.

00:12:31 Rep. Dickenson added the agencies reported on compliance and enforcement issues, and that the agencies worked to educate and offer compliance assistance before non-compliance penalties were assessed.

00:15:05 Sen. Shockley agreed the DEQ would rather have the work done properly than assess a fine.

Questions from the EQC

- 00:15:42 Sen. Hawks was interested in the BER discussion and stated he was surprised no comment was made regarding what was behind the BER's decision-making process. Sen. Hawks understood there had been an Environmental Protection Agency (EPA) refusal to implement the PM 2.5 science into the rules. Sen. Hawks was also interested in the significance of needing a direct measure to establish the size of the particulate.
- 00:17:55 Sen. Shockley commented that there was agreement that PM 2.5 should be measured. Sen. Shockley recalled testimony that the EPA is moving too slowly towards directly testing for PM 2.5, and there is a question of whether the technology is available. Sen. Shockley suggested there should be a rule requiring measurement of PM 2.5 if it is in the public interest.
- 00:19:41 Rep. Witte commented on the DEQ's compliance and enforcement report and the report's reference to 250 - 1,000 pounds of dynamite being stolen from a facility near Victor and suggested there should be followup. Rep. Witte also took exception to taxpayer dollars being spent on Earth Day activities. Regarding the Highwood Generation Station issue, Rep. Witte noted that nationwide a surrogate of 10 is used, but Montana wants to use PM 2.5. Rep. Witte directed the EQC to the Sierra Club website which claims victory for shutting down a Kansas power plant. Rep. Witte believed the Sierra Club is attempting to do the same with the Highwood Generation Station.

Public Comment

- 00:24:18 Anne Hedges, Montana Environmental Information Center, commented on Sen. Shockley's proposed letter requesting clarification of the rules. Ms. Hedges believed the BER's decision was based on rules. Ms. Hedges stated there is technology available to control PM 2.5 at power plants, and the BER believed the DEQ should have analyzed requiring that technology to be installed. Ms. Hedges spoke about the extreme danger PM 2.5 poses to society. Ms. Hedges stated the BACT applies to every regulated pollutant, and suggested that the BER was on solid ground with its decision. Ms. Hedges suggested the proposed letter missed the mark.
- 00:31:15 Aart Dolman, a concerned citizen from Great Falls, opposed the Highwood Generation Station. Mr. Dolman requested a public hearing on the Highwood Generation Station be held in Great Falls. Mr. Dolman suggested SME is not innocent and ignored concerns and questions voiced by the public.
- 00:35:08 Candace Payne, Southern Montana Electric (SME), asked the EQC to focus on the letter proposed by the Subcommittee and the issue of rule notice.

EQC Questions and Discussion

- 00:36:38 Rep. Witte addressed David Klemp, Air Resources Management, DEQ. Rep. Witte thanked the DEQ for the information in its compliance and enforcement

report and asked whether Glacier High was required to obtain a permit. Mr. Klemp responded Glacier High was not required to obtain a permit. Rep. Witte asked whether similar air-quality studies were performed for the Western University's boiler system. Mr. Klemp responded the PM 2.5 standard was not an issue for the University, but the boiler was permitted two or three years ago when the surrogate was used.

- 00:40:17 Sen. Story believed the EQC should weigh in on the issue of PM 2.5 and send a letter.
- 00:41:35 Rep. Bixby recalled the DEQ admitted it should develop rules and agreed a letter should be sent. Rep. Bixby noted that no laws were broken.
- 00:42:23 Ms. Conradi addressed using PM 10 as a surrogate and asked whether that was on the issue of control or measurement. Ms. Hedges identified it as a control issue. Ms. Hedges explained the BACT process and that the BACT applies to every pollutant subject to regulation under the Clean Air Act. Ms. Hedges clarified if it is determined an analysis is available that is not too expensive and is effective, then the agency could require the installation of the technology with an emission level based upon what that technology is capable of achieving. Ms. Hedges suggested that because the issue is complicated, it would be a good idea for the state to develop rules regarding what is necessary for industry to comply.
- 00:47:20 Mr. Everts clarified the BER precluded a PM 10 surrogate analysis. Therefore, if the BER is going to prohibit the DEQ from using the PM 10 surrogate analysis, there should be a rule.
- 00:48:04 Sen. Shockley agreed with Mr. Everts.
- 00:48:50 Sen. Shockley moved the adoption of his proposed letter, Exhibit 1, in substance.
- 00:49:05 Sen. Wanzenried asked whether both the DEQ and the BER needed to adopt a rule. Sen. Shockley suggested the letter should state the rule should be adopted by the DEQ.
- 00:49:55 Mr. Everts clarified that under the Air Quality Act, the BER has the rule making authority.
- 00:50:17 Sen. Wanzenried addressed the last paragraph of Exhibit 1 and suggested it could be reduced to one sentence stating "The Environmental Quality Council recommends that BER adopt rules specifying the method for measuring 2.5 micron particles . . ." Mr. Everts agreed to reword the letter and identified the issue as the prohibition of using PM 10 as a surrogate in the BACT analysis.
- 00:52:05 Sen. Shockley reiterated that if something is good public policy, it should be in rule. Sen. Shockley was not certain the technology was available to measure PM 2.5, but agreed with Ms. Hedges that if the EPA is not doing its job and a tighter standard is needed, then Montana should adopt a tighter standard.

- 00:53:50 Ms. Conradi inquired about the distinction between measuring and analyzing and thought the letter should emphasize analysis rather than measurement. Ms. Conradi asked what the legal basis was for using PM 10 as a surrogate. Mr. Everts understood there was guidance from the EPA.
- 00:55:06 Rep. Vincent suggested focusing on the fact that through its permitting process, Montana is precluding capital investments in Montana. Rep. Vincent believed the letter should reflect that the process is unfair. Rep. Vincent pointed out that it is impossible to control something that cannot be measured.
- 00:58:09 Sen. Shockley restated his motion that the substance of proposed letter be adopted and be sent to the BER and the DEQ.
- 00:59:10 Sen. Story suggested striking "measuring" and inserting "analyzing" in the last paragraph of the letter. Sen. Story also suggested the reference to obeying the law should not be included. Sen. Story thought the EQC should ask that the BER follow the common practice of conducting a rule making process.
- 01:02:40 Sen. Shockley suggested Sen. Wanzenried and staff could draft the final letter.
- 01:03:04 Ms. Conradi requested clarification on the DEQ's rulemaking authority versus the BER's rulemaking authority. Mr. Everts clarified the BER has the rulemaking authority in this case.
- 01:04:03 Sen. Kaufmann made a substitute motion that the EQC defer voting on the letter until next meeting, so the EQC could have an opportunity to review the final letter.
- 01:05:02 Sen. Story disagreed with delaying the letter and summarized the importance of the issue.
- 01:06:30 Sen. Wanzenried stated he was worried about the language in the letter being agreed on by the EQC. Sen. Wanzenried stated he was not comfortable signing the letter.
- 01:08:57 Sen. Shockley agreed to Mr. Everts redrafting the letter and presenting the redrafted letter to the EQC later in the day.
- 01:10:34 Sen. Kaufmann and Sen. Shockley withdrew their motions.

EQC/LFC Joint Petro-Fund Subcommittee Report

Report of Subcommittee Activities - Sen. Story

- 01:11:16 Sen. Story reported on the financial difficulties of the Leaky Underground Storage Tank (LUST) program. Sen. Story reported the Petroleum Tank Release Fund Subcommittee (PTRF) met twice and directed the EQC to the findings contained in "Analysis of Issues Surrounding the Solvency of the Fund, a Report to the Legislative Finance Committee and the Environmental Quality Council" (**EXHIBIT 2**).

Sen. Story commented the Petroleum Board will be proposing legislation in the 2009 Session. Sen. Story complimented Ms. Stockwell on the PTRF report.

01:19:48 Rep. Dickenson agreed with Sen. Story's summary and stated the PTRF wanted the EQC to be aware of the issues. Rep. Dickenson reviewed the available options.

Public Comment

01:24:35 Ronna Alexander, Petroleum Marketers Convenience Store Association, thanked the members of the PTRF. Ms. Alexander addressed the Petroleum Tank Compensation Board's proposed legislation and stated the legislation had not been thoroughly reviewed. Ms. Alexander suggested the DEQ should request work plans based on available funds and utilize risk-based assessments. Ms. Alexander also suggested the DEQ could close more sites. Ms. Alexander asked the EQC to direct the DEQ to pursue the two identified suggestions.

01:30:21 Kathy Green, Glendive, submitted written testimony regarding her father's petroleum tank release (**EXHIBIT 3**).

01:40:52 Tom Livers, Deputy Director, DEQ, asked staff to compile information regarding Ms. Green's concerns and offered to make that information available. Mr. Livers stated if the wells were installed improperly, the situation should have been addressed sooner. Mr. Livers explained the issue of priority sites is being addressed and stated a new prioritization system has been implemented. Mr. Livers explained the DEQ is responsible for regulating petroleum releases, but the Petroleum Release Compensation Board is not part of the DEQ, operates as a separate entity, and has separate authority.

01:43:53 Sandi Olsen, DEQ, assured the EQC that the DEQ is working on its process of tailoring its requests for work plans to be geared toward the priority of sites and retooling its program. Ms. Olsen recognized that long-term monitoring costs money, and that ground water management sites will have limited monitoring.

01:46:23 Ms. Green stated that when a site is ready for closure, there is a "no further corrective action" letter needed before the land can be sold. Ms. Green explained the DEQ keeps testing for years and years, so sites are never closed, and the property cannot be sold.

Questions from the EQC

01:48:15 Ms. Stockwell submitted a letter from Terry Wadsworth, Executive Director, Petroleum Tank Release Compensation Board (**EXHIBIT 4**).

01:48:45 Rep. Vincent addressed Sandi Olsen and the statistics regarding closures and wondered whether ground water monitoring was responsible for the drop in closures. Ms. Olsen stated the criteria for closures had not changed and, initially, the numbers were high because of the number of easy-to-close sites. Ms. Olsen also cited workload assignments and transitions as people left the program as

having an impact on site closures. Ms. Olsen explained the DEQ is working with a contractor to better manage the database. Ms. Olsen hoped to reduce long term-monitoring costs.

01:52:05 Sen. Hawks did not understand the reasoning behind utilizing private insurance to address tank releases. Sen. Story explained the state was intended to be a last resort for funding tank releases, and that claims are not turned into insurance companies since the insured's rates would likely be increased.

01:56:02 Sen. Story wanted the EQC to be aware of a Supreme Court ruling which addressed the statutes of limitations for accessing insurance claims. Sen. Story noted the complicated nature of the issue and the frustration of property owners when they cannot get their claims closed and have to bear the expense of long-term monitoring.

Council Action, if any

There was no formal action taken by the EQC.

(BREAK)

EQC/Water Policy Joint Subcommittee Report

Report of Subcommittee Activities - Sen. Story

02:20:18 Sen. Story reported on the past joint meetings between the Water Policy Interim Committee (WPIC)/EQC Joint Subcommittee (Joint Subcommittee) to determine whether the WPIC should become a permanent interim committee or whether the WPIC should become a subcommittee of the EQC. Sen. Story stated staff would be drafting proposed legislation for consideration by the Joint Subcommittee.

02:22:58 Sen. Wanzenried explained the two different fields of thought and the importance of addressing Montana's water issues.

Public Comment

No public comment was offered.

Questions from the EQC

02:25:05 Sen. Shockley recalled Sen. Story mentioning an option of having an EQC subcommittee that consisted of legislators other than those on the EQC. Sen. Wanzenried explained the hope was to educate more legislators on Montana water issues.

02:26:42 Sen. Story explained the Joint Subcommittee was concerned about having two committees working on the same issues.

- 02:27:04 Rep. Dickenson expressed concern about the EQC's already heavy workload. Rep. Dickenson noted the difficulty of forming a new interim committee and how that would affect Senators.
- 02:28:01 Ms. Conradi asked whether public members could sit on a subcommittee and whether a subcommittee could consist of members who do not sit on the main committee. Sen. Wanzenried indicated yes.
- 02:28:44 Sen. Hawks thought the Education and Local Government Interim Committee could be used as a model.
- 02:29:56 Sen. Story recalled the makeup of the EQC's Split Estate Subcommittee in the 2005-06 interim.

UPDATE ON WATER POLICY INTERIM COMMITTEE ACTIVITIES - Mr. Kolman

- 02:31:04 Mr. Kolman reported on the WPIC activities. Mr. Kolman directed the EQC to the WPIC's draft legislation and report which are available on the website. The WPIC will meet again in August and September.

UPDATE ON ENERGY AND TELECOMMUNICATIONS INTERIM COMMITTEE ACTIVITIES - Ms. Nowakowski

- 02:32:30 Ms. Nowakowski provided an update on the Energy and Telecommunications Interim Committee (ETIC) and stated the draft report on carbon sequestration is available on the website. Ms. Nowakowski explained the draft legislation and report were put out for public comment and received approximately one dozen comments.

FIRE SUPPRESSION INTERIM COMMITTEE ACTIVITIES - Ms. Heisel

- 02:36:50 Mr. Everts gave the Fire Suppression Interim Committee (FSIC) report for Leanne Heisel, Lead Staff for the FSIC. The FSIC is considering draft recommendations and bill drafts and will meet in Choteau in August. Additionally, FSIC members are being encouraged to visit fire camps.

WATER ADJUDICATION PROCESS OVERSIGHT

Department of Natural Resources

- 02:39:45 Mary Sexton, Director, Department of Natural Resources and Conservation (DNRC) submitted and reviewed "DNRC Report to EQC, HB 22 Adjudication Progress, July 15, 2008" ([EXHIBIT 5](#)).

Montana Water Court Update--Judge Loble

- 02:47:14 Judge Loble, Chief Water Judge, Montana Water Court, reported the water court issued a Forest Service Compact Decree on May 19 and will be holding six public meetings across the state. The Big Hole objection deadline expired on

March 31, 2008. The counter objection period expired on July 11, 2008. Motions to dismiss objections were filed by Trout Unlimited and Western Watersheds Project. The motions to dismiss raised the issue of whether Trout Unlimited and Western Watersheds Project have standing to file objections to water right claims in the Big Hole. The DNRC and the water court held a pre-decreed meeting in White Sulphur Springs regarding the Smith River adjudication.

EQC Questions and Discussion

- 02:50:15 Sen. Shockley thought the new realty transfer certificates were creating confusion and stated the Ravalli Clerk and Recorder, specifically, had expressed confusion regarding the new procedure. Director Sexton cited a miscommunication with the Clerks and Recorders Association and explained the DNRC is addressing the problem.
- 02:52:34 Sen. Story addressed the geocode issue and asked if there could be a reference in the geocode that would indicate there is a water right associated with the property. John Tubbs, Water Resources Administrator, DNRC, stated if the water right is not going to transfer with the property, a box is checked; otherwise, any water right associated with the parcel automatically transfers. Mr. Tubbs identified problems that are surfacing and being addressed by the DNRC.
- 02:55:47 Sen. Shockley estimated that half the wells in Ravalli County are not recorded. Sen. Shockley noted unless the water right is reserved, the water right always transfers with the deed. Director Sexton responded the issue has always been with those water rights that were severed from the property. Sen. Wanzon pointed out the issue is a water policy issue.

Public Comment

No public comment was offered.

INSTREAM FLOW PROGRAM REPORT

Mike McLane, Department of Fish, Wildlife & Parks

- 02:58:15 Mike McLane, Fisheries, Department of Fish, Wildlife & Parks (FWP), submitted "Biennial Progress Report - FWP Water Leasing Study - 2006 & 2007" ([EXHIBIT 6](#)).

EQC Questions

- 03:06:59 Sen. Story asked whether FWP ever had to initiate an enforcement action to keep one of its leases watered. Mr. McLane was not aware of any calls being made on FWP's leases and explained how FWP relies on water commissioners. Mr. McLane emphasized most of the leases are on fairly small streams.

- 03:08:49 Sen. Story commented the sunset was placed on the lease program because it would be some time before a determination could be made whether there was an adverse affect on water users.
- 03:09:27 Rep. Lambert recalled past conversations that in order to get and hold a water right, a person had to prove usage. Mr. McLane agreed. Rep. Lambert wondered how a water right could continue to be held once the water is leased. Mr. McLane explained FWP is interested in leasing wet water, not paper water.
- 03:13:23 Rep. Lambert restated her question and wondered if a person has to prove usage, how could that person have water to lease out. Mr. McLane explained the beneficial use and the leased water cannot be used at the same time. Mr. McLane explained FWP is also investigating split season water leasing. Mr. McLane noted the lease provisions will protect a water right owner from abandonment.
- 03:17:05 Sen. Shockley addressed Mr. McLane's example and presented a scenario which included a junior water right user. Mr. McLane agreed intermediate users would need to be protected.
- 03:19:24 Sen. Wanzenried pointed out the EQC was discussing another water issue.
- 03:19:57 Sen. Story recalled the bulk of the discussion at the Joint Subcommittee meeting was how water issues would be divided.

HJR 57 CONSERVATION EASEMENT/TRUST LAND

Review of Public Comment - Mr. Kolman

- 03:20:46 Joe Kolman, Legislative Research Analyst, submitted written comments on HJ 57 from the Montana Petroleum Association, Montana Association of Land Trusts, American Public Land Exchange Company, and the Musselshell Planning Group ([EXHIBIT 7](#)).

Public Comment

- 03:22:35 Director Sexton suggested the report should be more explicit that the Land Board still has to adhere to, and be responsible for, other statutory and constitutional requirements. Mr. Kolman agreed to make Director Sexton's suggested change.
- 03:24:11 Tim Ravndall was a participant early in the process and had raised concerns about constitutional issues and reiterated that as the process moves forward, it is important not to tie our hands to tomorrow's issues as they arise. Mr. Ravndall cautioned against confusing conservation with preservation.
- 03:26:14 Glen Marks, Montana Association of Land Trusts, commented on past concerns about conservation easements and agricultural use. Mr. Marks believed conservation easements complement state lands.

Questions and discussion - EQC

- 03:29:27 Sen. Shockley asked how the rule against perpetuity would apply. Mr. Marks could not answer.
- 03:29:52 Rep. Dickenson recalled a guarantee of opportunity to use the land for traditional use and asked Mr. Marks to comment. Mr. Marks was uncertain about the meaning of "guarantee of opportunity." Mr. Marks explained that in private land conservation, the intent and legal requirement of the easement is to make the land available on a continued and permanent basis for agriculture.
- 03:31:27 Rep. Dickenson asked how Director Sexton interpreted "guarantee of opportunity." Director Sexton thought it would ignore the fact that the Land Board and DNRC do have statutory and constitutional obligations.
- 03:32:40 Rep. Dickenson asked about the issue of conservation easements making surrounding land more valuable. Director Sexton agreed that does happen but noted there are private property rights.
- 03:34:20 Vice Chairman Lambert asked whether conservation easements can be for five years or ten years. Director Sexton replied all conservation easements are now in perpetuity. Director Sexton identified land use licenses as another tool and stated land use licenses can have the same effect, but are for a shorter period of time.

CONSIDERATION OF CONTINGENT VOIDNESS CLEAN-UP LEGISLATION VIA THE CODE COMMISSIONER - Mr. Everts

- 03:37:19 Mr. Everts explained the Code Commissioner's concern with contingencies in the Coal and Uranium Mine Reclamation Act that will not be fulfilled and asked the EQC to consider draft legislation to remove the contingencies. Mr. Everts offered to draft legislation to eliminate the contingencies.
- 03:38:56 Rep. Vincent requested clarification, and Mr. Everts stated the contingencies are not going to occur because they were based on the U.S. Secretary of the Interior's disapproval of the legislative amendments to the Coal and Uranium Mine Reclamation Act. However, the amendments were approved by the U.S. Secretary of the Interior.
- 03:40:12 Sen. Wanzonried moved that Mr. Everts prepare the legislation for discussion at EQC September meeting.
- 03:40:49 Sen. Story requested the cites for the affected sections. Mr. Everts cited §§ 82-4-232, -254, and -1001, MCA.
- 03:41:50 The motion carried unanimously by voice vote.
- 03:42:18 Ms. Stockwell made a correction to the Petroleum Tank Release Report, page 8, which stated Montana has a 50 percent backlog in cleanups. Ms. Stockwell

stated the DEQ disputed that amount and had informed her that 38.6 is the correct percentage.

(LUNCH)

PUBLIC COMMENT ON ANY MATTER NOT CONTAINED IN THIS AGENDA AND THAT IS WITHIN THE JURISDICTION OF THE EQC

There was no public comment offered.

DEQ 2009 LEGISLATIVE PROPOSALS

05:02:05 Mr. Everts reviewed the procedure and purpose for the EQC reviewing agency bill draft proposals.

05:05:53 Sen. Story commented the proposed legislation comes before the EQC, so the agency can get a sense of whether it is worth their time to pursue the legislation.

DEQ Staff Overview of Legislative Proposals

05:07:39 Richard Opper, Director, DEQ reviewed "Department of Environmental Quality, Summary of Proposed Legislation" ([EXHIBIT 8](#)).

State Buildings Energy Conservation Program

05:10:43 Rep. Dickenson asked if there was a cap on the bonding amount. Director Opper explained the proposal does not establish a cap, but there will be a cap involved, and it would probably be higher than in the past.

05:11:59 Vice Chairman Lambert asked if a program was currently in place. Director Opper responded a program had been in place for the past 20 years but did not include utilization of bonding authority to fund projects.

Energy Performance Contracting for State Buildings

05:13:06 Director Opper continued reviewing Exhibit 8.

05:14:39 Sen. Hawks suggested one prerequisite would be that the work be performed by a highly qualified large firm and wondered whether Montana would have to seek assistance from an out-of-state firm. Director Opper stated there would be a set of pre-qualified companies with the necessary experience and capabilities, and some of those would be from outside of Montana.

05:16:03 Mr. Livers added many out-of-state companies that perform this type of work also have offices in Montana. Mr. Livers suggested there would probably be a mix of both in- and out-of-state offices.

05:17:08 Rep. Dickenson recalled Wyoming also put out requests to pre-qualify energy companies and received a large number of applicants. Rep. Dickenson

wondered whether Montana would be required to pay if a company's work does not perform in the way it should. Director Opper responded the state would be very cautious and the contract would contain performance requirements.

Variance Procedure for Nutrient Standards Based on Affordability

- 05:18:54 Director Opper continued reviewing Exhibit 8.
- 05:21:07 Sen. Shockley suggested the proposal might not be well received. Director Opper thought communities who could not afford upgrades to meet EPA standards would be grateful to have the impact lessened.
- 05:22:45 Ms. Conradi was curious how the variance procedure would square with the federal legal requirements. Director Opper responded the variance would have to be approved by the EPA. Ms. Conradi wondered each individual variance would have to be approved, and Director Opper explained each community would have to apply on its own.

Comprehensive Environmental Cleanup Responsibility Act (CECRA) Voluntary Cleanup and Redevelopment Act (VCRA)

- 05:24:16 Director Opper continued reviewing Exhibit 8. Director Opper submitted and reviewed "State Superfund Program Legislation Proposed for 2009 Session" ([EXHIBIT 9](#)).
- 05:28:58 Rep. Vincent asked for comments regarding using deed notices as a form of institutional control.
- 05:29:24 Sandi Olsen explained deed notices are placed on deeds to inform future owners and potential owners of contamination.
- 05:30:32 Rep. Vincent asked what measuring device is used for discretionary sanctions. Director Opper identified the trigger as being the ability to document that a company knowingly withheld information from the DEQ.
- 05:31:40 Ms. Olsen thought "discretionary sanctions" was a poor choice of terms and stated there are a number of ways where there could be unanticipated contamination at a site that is not revealed. Ms. Olsen suggested "tiered sanctions" would be a better term.
- 05:32:39 Sen. Shockley suggested spelling out the specific sanctions. Ms. Olsen could not yet provide the specific sanctions.

Kalispell Pole and Timber/Reliance Refinery/Yale Oil (KRY)

- 05:33:43 Director Opper continued reviewing Exhibit 8.
- 05:36:04 Rep. Witte noted the Orphan Share Fund comes from the resource ground water assessment tax and oil and gas revenue. Rep. Witte asked what the fund

balance was and Director Opper responded the fund balance is currently approximately \$8 million. Rep. Witte wondered how much of a hardship would be put on the Orphan Share Fund. Director Opper explained there are several current obligations of the fund, including one to the City of Bozeman for approximately \$2 million and another obligation to the City of Darby. Director Opper believed all of the balance would not be needed this biennium and that expenses would decrease over time. Director Opper agreed the proposal would place a considerable drain on the Orphan Share Fund.

805:38:51 Sen. Wanzenried wondered why a process would be set up because interest could be used for other projects. Director Opper understood the expenses will be drawn out as the expenses are incurred. Sen. Wanzenried noted the language referencing a "direct one-time transfer for the biennium of up to \$9,000,000." Director Opper agreed the wording should be changed.

05:40:50 Rep. Witte recalled that there could be ongoing expenses of \$900,000 a year for the next 10 to 15 years. Director Opper emphasized those are not ongoing expenses for DEQ's oversight of the project, but agreed there would be some ongoing expenses for DEQ's oversight. Rep. Witte asked if there was time line for the project. Director Opper responded the project design still had to be completed and the time line would vary depending on many factors.

Additional Legislation Being Considered

05:46:12 Director Opper reviewed the list of DEQ's Additional Legislation Being Considered contained in Exhibit 8.

05:48:08 Rep. French wondered whether a small group of rural communities could share certified wastewater operators. Director Opper believed it would be fine to share an operator among communities.

05:48:57 Director Opper continued reviewing the list of DEQ's Additional Legislation Being Considered contained in Exhibit 8.

05:49:38 Sen. Shockley recalled learned lessons with ethanol and wondered why biodiesel be better. Director Opper clarified there were mixed feelings on the success of ethanol.

05:52:19 Sen. Story addressed biodiesel and noted that biodiesel lends itself to small-scale production, and the vehicle market has not transformed to diesel-powered automobiles. Sen. Story wondered what the individual incentives would be. Director Opper thought the incentives for individual consumers would be a price break at the pump. Director Opper suggested there would be more potential on a larger scale rather than for individuals.

05:54:28 Ms. Conradi asked about the list of potential legislation to implement the climate change plan.

05:55:05 Chairman Lambert explained those proposals had not yet been addressed.

05:55:43 Director Oppen continued reviewing DEQ's "Additional Legislation Being Considered" contained in Exhibit 8.

05:57:36 Rep. Vincent asked about using biodiesel in the winter and wondered whether the tax credit would apply to implementing heating systems. Director Oppen responded the legislation is only conceptual and agreed with Rep. Vincent's point.

05:59:13 Ms. Conradi asked whether the EQC would be discussing its recommendations regarding climate change. Chairman Lambert agreed. Ms. Conradi asked whether the DEQ would be proposing any other agency legislation regarding the Governor's climate change plan. Director Oppen responded there would be no DEQ proposals.

06:00:44 Director Oppen continued reviewing the DEQ's "Additional Legislation Being Considered" contained in Exhibit 8.

06:01:38 Sen. Story asked for a definition of "public water supply system."

06:02:08 Jon Dilliard, DEQ, explained the federal statute definition is a system that serves 25 or more people, 60 days out of the calendar year, or has 15 or more service connections.

06:02:53 Rep. Witte asked whether funds were available from Long Range Planning or whether there were other available avenues for funding.

06:03:37 Mr. Livers explained the legislation would not provide a mechanism for financing and would only provide regulatory authority to have deficiencies addressed. Mr. Livers stated there are several available infrastructure financing programs through the Long Range Planning Committee.

06:04:40 Sen. Story asked whether grants were available to everyone or whether the grants were only available to governmental entities.

06:05:28 Mr. Livers agreed most grants are restricted to municipal systems and that the majority of systems that would be affected are small privately owned systems.

06:06:44 Sen. Shockley asked whether there had been any reported illnesses that would be alleviated by the proposal. Mr. Dilliard identified one instance where approximately 75 individuals fell ill.

06:08:16 Director Oppen reviewed DEQ's "Additional Legislation Being Considered" contained in Exhibit 8.

06:09:40 Sen. Wanzenried requested an example of a citizen lawsuit. Director Oppen identified the Texaco Sunburst site lawsuit.

Public Comment

No public comment was offered.

Council Action to Request Bill Drafts for Drafting Purposes Only

- 06:10:52 Sen. Wanzenried moved the EQC direct that DEQ's summary of proposed legislation, through Kalispell Pole and Timber/Reliance Refinery/Yale Oil (KRY), be drafted for the purposes of pre-introduction.
- 06:11:42 The motion carried unanimously by voice vote.
- 06:12:38 Mr. Everts clarified that Sen. Wanzenried's motion was only for the proposed legislation and not the additional legislation DEQ is considering. Director Opper stated he did not want to preclude the additional legislation from pre-drafting. Mr. Everts explained the EQC could consider DEQ's other legislative proposals at its September meeting.
- 06:13:59 Sen. Story moved that the DEQ's Damage Awards and Environmental Cleanup proposal also be drafted for pre-introduction.
- 06:14:44 Sen. Story's motion carried unanimously by voice vote.

DNRC 2009 LEGISLATIVE PROPOSALS

DNRC Staff Overview of Legislative Proposals

Revising Closed Water Basin Permitting

- 06:16:11 Director Sexton reviewed "DNRC 2009 Legislation Under Consideration" ([EXHIBIT 10](#)).
- 06:18:01 Rep. Dickenson asked whether the proposal would address the problem where citizen groups found the process overwhelming. Director Sexton thought the testimony Rep. Dickenson was referencing was related to controlled ground water areas. Director Sexton added the proposal would allow discretion to refine what is required in the report, so the report is not as broad and expensive.
- 06:20:08 Rep. Vincent asked whether the proposal would allow flexibility for hydro-geological assessments. Director Sexton agreed.
- 06:20:55 Sen. Story asked whether the proposals were presented in the administrative process and wondered about the significance of the Office of Budget and Program Planning (OBPP) numbers. Sen. Story asked whether the proposals had approval from the administration. Director Sexton stated the proposals had gone through the process and the DNRC was continuing through the process. Director Sexton stated each of the proposals had not been individually approved.

06:22:04 Rep. Vincent asked for additional examples of what would not be allowed in a mitigation plan. Mr. Tubbs identified a problem experienced in Colorado when an attempt was made to capture credit for eliminating anything that used water by applying paving. Mr. Tubbs did not believe that type of mitigation would be effective.

Improve Water Permitting Process

06:24:24 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

Update Controlled Ground Water Area Petition Process

06:25:36 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

06:27:02 Rep. Dickenson asked whether the proposal would affect current situations or only apply to new situations. Director Sexton agreed it would only apply to new petitions, unless the applicant wanted to start the process over. Rep. Dickenson wondered if it might be in an applicant's best interest to start the process over. Director Sexton agreed that could be the case in some situations.

06:27:57 Sen. Story asked whether it would be a regular rulemaking process or a negotiated rulemaking process. Mr. Tubbs clarified the rulemaking process would have to be modified to allow for more extensive discussion.

06:29:06 Sen. Story asked if that would constitute a negotiated rulemaking process, and Mr. Tubbs responded all the tools under the Montana Administrative Procedures Act (MAPA) would be available.

Clarify Groundwater Utilization General Water use Compliance Cleanup

06:29:48 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

06:30:31 Sen. Story asked whether the groundwater utilization in closed basins proposal would address the exempt well issue. Director Sexton agreed it would provide clarification for the definition of exempt well.

Floodplain Map Adoption Efficiency

06:31:05 Director Sexton continued reviewing the DNRC's proposed legislation, Exhibit 10.

TRUST LANDS MANAGEMENT DIVISION

Trust Land Funding Reform

06:31:42 Director Sexton continued reviewing the DNRC's proposed legislation, Exhibit 10.

06:32:46 Rep. Dickenson identified an issue with past legislation and the fact that there were figures available as to what income goes to which trust. Director Sexton

stated the proposal is a result of the DNRC audit and addresses how to more effectively bill each trust. Rep. Dickenson asked if the proposal would ensure that each trust is receiving the correct income. Director Sexton stated there are now better tools available. Rep. Dickenson asked whether requiring employees to provide an hourly accounting would be difficult for the employees. Director Sexton responded they are trying to keep the proposal from being a burden on the employees.

Modify Salvage Timber Permit Volume

06:35:44 Director Sexton continued reviewing the DNRC's proposed legislation, Exhibit 10.
06:36:42 Sen. Kaufman asked about the purpose of advertising. Director Sexton stated there would be an advertisement for competitive bids.

CONSERVATION AND RESOURCE DEVELOPMENT DIVISION

Public Water and Wastewater Finance Cleanup

06:37:34 Director Sexton continued reviewing the DNRC's proposed legislation, Exhibit 10.

RESERVED WATER RIGHTS COMPACT COMMISSION

Sunset Reserved Water Rights Compact Commission

06:39:14 Director Sexton continued reviewing the DNRC's proposed legislation, Exhibit 10.

06:40:16 Ms. Conradi asked which compacts were outstanding. Director Sexton identified the Blackfeet, Fort Belknap, and the Confederated Salish and Kootenai Tribes compacts. Director Sexton anticipated resolution of the compacts and noted the parties have been working very hard for the last 25 years.

06:42:05 Sen. Hawks recalled a two-year extension was proposed last session, and it was understood it would be the last request for an extension.

06:42:38 Rep. Bixby explained the tribes had been talking about extending the sunset. Rep. Bixby asked whether realistically the work would be completed before the sunset and what would happen if there was no resolution. Director Sexton stated the Commission would go away and the process would go through litigation. Director Sexton was unsure whether legislation to extend the deadline would be proposed.

Blackfeet Water Compact

06:44:12 Director Sexton continued reviewing DNRC's proposed legislation.

06:45:16 Chairman Wanzenried asked how much money was approved by the Legislature should the compact be consummated. Director Sexton responded it was \$15 million. Chairman Wanzenried was curious about the total price tag. Susan Cottingham, Reserved Water Rights Compact Commission, stated once the

Compact is approved, they are hoping to get some additional money to complete the state's cost-share for the whole settlement. Ms. Cottingham calculated the estimated cost as being \$15 million, plus \$3 million, plus an estimated \$15-20 million for the bonding.

Fort Belknap Implementation and Financing

06:47:27 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

BOARD OF OIL AND GAS CONSERVATION

Enhance Recovery of Oil and Gas

06:48:13 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

06:48:41 Rep. Witte requested a more detailed explanation regarding the proposal for enhanced recovery of oil and gas. Tom Richmond, Montana Board of Oil and Gas, explained that everyone in the project area needs to join the unit to accomplish enhanced recovery. Mr. Richmond explained how in the past large producers could put together enhanced recovery projects and take property from smaller owners. Mr. Richmond explained that North Dakota and Wyoming have both reduced the percentage.

06:51:28 Rep. Dickenson stated enhanced oil recovery could be a way to use carbon dioxide and thought the people in the basin would need to participate. Mr. Richmond agreed. Mr. Richmond added that the proposal would not change any of the requirements the Board of Oil and Gas has to meet to approve a unit, including a determination that it will enhance recovery and provide the potential of greater profit for the people involved.

Clarify Oil Well Unit Spacing Requirements

06:53:11 Director Sexton continued reviewing DNRC's proposed legislation, Exhibit 10.

06:53:48 Rep. French requested an explanation, and Mr. Richmond explained the need for a definition of a spacing unit and the purpose of the proposed legislation.

06:55:15 Rep. French asked whether the legislation would protect oil companies that would be drilling close to each other or whether the proposal addressed an environmental issue. Mr. Richmond explained the proposal was designed to protect the non-operating interest owners.

Public Comment

No public comment was offered.

Council Action to Request Bill Drafts for Drafting Purposes Only

06:56:56 Sen. Hawks moved the EQC approve DNRC's 2009 proposed legislation and ask the legislation be drafted for the purposes of pre-introduction. Sen. Hawks' motion carried unanimously by voice vote.

Letter to BER re: Adoption of Rules

06:58:35 Chairman Wanzenried submitted a revised letter regarding the BER rulemaking procedure (**EXHIBIT 11**).

06:59:09 Sen. Shockley moved the letter be sent as drafted. The motion carried with Rep. Witte and Rep. Vincent voting no. Rep. Lambert, Sen. McGee, Mr. Pattison, and Mr. Cebull voted aye by proxy.

07:01:05 Rep. Witte commented the letter recommends that the BER develop rules to PM 2.5, and Rep. Witte noted that no other states have set that rule. Chairman Wanzenried agreed and stated the point is that if the BER is going to require a certain standard, then that standard needs to be set in rule.

07:01:59 Sen. Story commented that a person could disagree with whether PM 2.5 is the right number, but noted the BER had already made that decision.

07:02:25 Rep. Witte wondered why Montana would take a standard that no other state had. Sen. Wanzenried clarified now that the BER has the requirement, they need to adopt a rule.

07:02:57 Sen. Shockley reiterated the issue was not about the Highwood Generation Facility, but about the way the BER acted.

(BREAK)

ADDITIONAL COUNCIL DISCUSSION ON CLIMATE CHANGE STUDY (if necessary)

07:15:30 Sen. Hawks moved the EQC approve the package of proposed legislation on climate change. (Minutes of the EQC Meeting, July 14, 2008, Exhibit 7)

LC 6007

07:16:15 Sen. Story addressed LC 6007 and submitted letter from Mr. Cebull outlining Mr. Cebull's concerns with the funding source (**EXHIBIT 12**). Sen. Story moved to segregate LC 6007.

07:17:56 Mr. McRae agreed with Mr. Cebull's comments regarding the coal bed methane protection account.

07:18:23 Mr. Kolman clarified the bill draft skims five percent off the oil and gas production tax revenue that goes to the general fund and the proposal does not raid the coal

bed methane protection account. Mr. Kolman clarified the EQC directed the bill draft to address weatherization with oil and gas revenue.

- 07:20:21 Sen. Shockley referred to Ms. Nowakowski's overview of the proposed legislation dated July 1, 2008, (Minutes of the EQC Meeting, July 14, 2008, Exhibit 7, p. 8) and stated he did not like the word "generates" in the second bulleted item.
- 07:20:56 Mr. Everts pointed out the word "generates" is used in the description of the proposal and is not in the bill draft.
- 07:21:20 Sen. Story directed the EQC to LC 6007, and stated the bill draft contains a statutory appropriation of some of the oil and gas money before the money reaches the general fund. Sen. Wanzenried commented the Finance Committee would be a stickler about statutory appropriations. Sen. Story commented a large portion of the general fund was at one time statutorily appropriated.
- 07:24:14 Sen. Hawks asked whether the Legislative Finance Committee would be taking a strong policy about earmarking. Sen. Wanzenried clarified there is division among the Legislative Finance Committee, and the question is whether statutory appropriations are good public policy.
- 07:25:38 Mr. Everts did not believe that technically the funding was a statutory appropriation, and that the Legislature would still need to appropriate the money. Sen. Wanzenried stated he did not want to preempt discussion about the bill draft.
- 07:26:35 Rep. Dickenson commented on the value of moving the proposal forward and obtaining public comment.
- 07:27:56 Sen. Shockley asked whether there would be a hearing on the bill. Sen. Wanzenried clarified there would not be a hearing, but the proposal would be publically noticed and opened for public comment.
- 07:28:46 Sen. Story stated LC 6007 is a funding bill and not a policy bill.
- 07:30:18 Sen. Kaufmann suggested making the general fund the source of funding.
- 07:32:02 Sen. Story's motion to segregate LC 6007 failed by roll call vote.

LC 6011

- 07:33:54 Rep. Witte moved LC 6011 be amended to include after "LEED silver standard" include "Sustainable Forest Initiative and American Tree Farm System."
- 07:35:03 Sen. Hawks asked why not include the language "or other comparable standards."
- 07:35:33 Sen. Hawks agreed to amend motion to state Sustainable Forest Initiative and American Tree Farm System, or other comparable standards."

- 07:36:01 Sen. Kaufmann expressed concern about identifying particular standards in the statutes and suggested the statute should be more generic.
- 07:37:03 Sen. Hawks explained the commonly understood standard for government buildings is the LEED Silver Standard and the intent would be clear by adding "or other comparable standards."
- 07:37:50 Sen. Kaufmann suggested public comment could be helpful.
- 07:38:07 Rep. Vincent agreed public comment would be useful.
- 07:38:49 Sen. Story agreed with Sen. Kaufmann about referencing an unknown standard in statute. Sen. Story wondered if it would be better to direct the department to adopt rules.
- 07:40:03 Sen. Kaufman agreed with Sen. Story's suggestion of providing language requiring "rulemaking based on" and including the standards.
- 07:40:29 Rep. Witte's motion carried unanimously by voice vote.

LC 6003

- 07:40:44 Ms. Nowakowski explained she needed more guidance for LC 6003 and noted the current proposal has two alternative funding sources and sought direction on which funding source should be utilized.
- 07:42:19 Rep. Dickenson addressed Ed Thamke, DEQ, regarding the tipping fee. Rep. Dickenson recalled industry was not opposed to a slight increase in the tipping fee when it was suggested for other purposes. Mr. Thamke stated he brought the proposal before the Solid Waste Advisory Council, and it had not weighed in on the proposal. Rep. Dickenson preferred increasing the tipping fee as opposed to utilizing the coal severance tax. Rep. Dickenson moved that LC 6003 specify the funding would be from an increase in the tipping fee.
- 07:45:04 Rep Vincent suggested MACo would be commenting.
- 07:45:47 Rep. Dickenson's vote carried by roll call vote.

LC 6010

- 07:47:42 Mr. Everts addressed LC 6010 and explained if Congress were to pass the Resolution, the Governor could declare a crisis if there were severe fire danger in Montana, and federal agencies would be required to implement a mitigation plan to reduce fuel loads. The process would be excluded from the National Environmental Policy Act (NEPA) appeals process only.
- 07:50:10 Rep. Vincent added the public participation process is still there, but the proposal removes the gridlock. Rep. Vincent cited the existence of serial litigants and explained when the system gets loaded with numerous appeals, the agency has

to respond to every appeal. If a judge rules in favor, costs are paid by the agency.

07:52:43 Rep. Dickenson inquired where in the process public input would come in. Rep. Vincent explained when the project is named, the MEPA process begins with an Environmental Impact Statement (EIS). Rep. Vincent envisioned using a collaborative stakeholder process. Rep. Vincent believed it was necessary to get the attention of Washington, D.C.

07:55:05 Rep. Dickenson asked whether NEPA kicks in on any federal forest plan. Mr. Everts clarified a national act triggers NEPA, not a state action.

07:56:37 Sen. Story asked whether the Resolution had a reference number. Mr. Everts offered to obtain the number.

LC 6011 (Cont'd.)

07:58:09 Sen. Story addressed LC 6011 and requested that new construction of state-owned buildings include state buildings that are constructed or leased. The EQC had no objection to incorporating Sen. Story's suggestion.

LC 6005

07:58:57 Sen. Story relayed Mr. Cebull's concern with LC 6005. Mr. Cebull was not in favor of advancing LC 6005.

07:59:38 Sen. Hawks addressed Mr. Cebull's concerns and stated LC 6005 would provide an awareness of the Legislature's concern and awareness of the highway transportation system.

08:00:59 Mr. Everts recalled Sen. Story and Rep. Dickenson had requested clarification language regarding performance measuring for conservation. Sen. Story agreed and wondered about reporting requirements and where those requirements are codified. Mr. Everts offered to research the issue.

LC 6011 (Cont'd.)

08:02:48 Rep. French explained that she had researched LEED and discovered Canada has its own LEED standard, which contains a point system for using regional materials. Rep. French's research also indicated that the United States' LEED does not compensate for the use of local and regional materials.

08:03:44 Sen. Hawks identified a new concept being worked on called "imbedded costs," which will be factored in with the next series of changes in the United States' LEED standards.

LC 6000

- 08:04:28 Sen. Story addressed LC 6000 and expressed concerns that the bill leaves out other programs that have the same funding source.
- 08:06:11 Ms. Nowakowski explained the other programs were excluded because she was directed to look at Growth through Agriculture and manufacturing centers. Ms. Nowakowski explained the 2010 Coalition through the Montana Department of Commerce is working with Governor's Office to advance the programs as a package.
- 08:07:16 Sen. Hawks' motion to approve LC 6000 - 6011, as amended, for the purpose of drafting and noticing for review and obtaining public comment carried by voice vote with Rep. Lambert, Sen. McGee, Mr. Pattison and Mr. Cebull voting no by proxy. Rep. Bixby voted yes by proxy.

CLIMATE CHANGE DRAFT REPORT

- 08:09:24 Ms. Nowakowski directed the EQC to "Climate Change, An Analysis of Climate Change Policy Issues in Montana" and requested directions on how to proceed ([EXHIBIT 13](#)).
- 08:10:10 Rep. Dickenson moved to proceed with the draft report and eliminate the survey information since the survey information is long and not scientific.
- 08:11:26 Ms. Nowakowski requested clarification regarding the exclusion of the survey from the appendices or all references to the survey. Rep. Dickenson clarified she would just like the survey removed from the appendices.
- 08:12:37 Rep. Vincent asked Ms. Nowakowski whether she had reviewed the recent report of the Science and Public Policy Institute. Ms. Nowakowski stated she had reviewed the report, and it could be referenced. Ms. Nowakowski explained the EQC's draft findings would go out for public comment and the EQC would decide in September, based on public comment, which findings to include in the report.
- 08:16:23 Sen. Story commented there were other things in the report he would like to change.
- 08:17:55 Sen. Story made a substitute motion to include in the report the process of how the governor's report came about, which was with the assistance of the Center for Climate Change Strategies and the funding it provided. Sen. Story withdrew his motion. Rep. Dickenson withdrew her motion.
- 08:19:11 Sen. Story moved that the report include the process of how the Governor's report came about with the assistance and funding from the Center for Climate Change Strategies. Sen. Story's motion carried unanimously by voice vote.

- 08:20:09 Rep. Dickenson moved the information in the report regarding the survey be omitted from the appendices. Rep. Dickenson's motion carried unanimously by voice vote.
- 08:20:56 Rep. Vincent would like the report reference a petition which was signed by 143 Montana scientists, as well as 9,000 individuals with Ph.Ds, rejecting the IPCC's findings.
- 08:23:16 Rep. Dickenson noted climate change links are included in the report and suggested a link to that information and the organization could be included. Rep. Dickenson stated she could also come up with ten documents that would be supportive of IPCC, but did not think it would be appropriate. Rep. Dickenson thought the information would be valuable and suggested the link be included.
- 08:24:21 Rep. Vincent believed it was important for the public to read the report, but to also see the scientists from Montana who signed onto the petition. Rep. Vincent agreed to inserting the link. Rep. Vincent moved the draft include reference to the climate change report prepared by the Science and Public Policy Institute, specifically in reference to page 15 of the report with regard to the petition that 143 Montana scientists have signed onto, and provide a link to the report. Rep. Vincent's motion carried by roll call vote.
- 08:28:09 Rep. Dickenson moved to advance the draft report for public comment. The motion carried unanimously by voice vote.
- 08:28:45 Chairman Wanzenried encouraged any interested EQC members to attend a an East Helena public listening session on gravel pits. Chairman Wanzenried thanked EQC staff for their work.

ADJOURN

Meeting adjourned at 4:33 p.m.